

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GWANJUN KIM,

Plaintiff,

Case No. 1:06-cv-683

v.

Hon. Robert J. Jonker

U.S. DEPARTMENT OF LABOR,
et al,

Defendants.

**ORDER GRANTING MOTION TO FILE
AMENDED COMPLAINT**

Pending before the court is plaintiff's motion to file an eighth amended complaint (docket 163). The motion will be GRANTED, in part.

Currently pending as the operative complaint in this action is plaintiff's second amended complaint. Plaintiff has previously attempted to file a third, fourth, fifth, sixth and seventh amended complaint, but these proposed complaints have not been accepted by the court for various reasons. See Orders of March 16, 2007 (Docket No. 76) and August 13, 2007 (Docket No. 153).

On September 5, 2007, the court held plaintiff's motion to file an eighth amended complaint in abeyance, and required that plaintiff was to furnish the court and the defendants, not later than September 19, 2007, his proposed eighth amended complaint, set forth in its entirety, showing the changes plaintiff proposed to the pending second amended complaint. Plaintiff was cautioned that if the court allowed him to file his proposed eighth amended complaint, that complaint would replace the current complaint before the court in its entirety.

On September 18, 2007, plaintiff timely filed his proposed eighth amended complaint which appears to comply with the court's order of September 5, 2007. See Docket No. 177. Defendants John Van Nieuwenhuyzen and Central Area Michigan Works! Consortium have filed a response and brief in opposition to plaintiff's motion to amend and the proposed complaint (Docket No. 179).

Leave to amend should be freely given when justice so requires. FRCP 15(a). Plaintiff is proceeding *pro se*, and is of Korean heritage struggling with English as his third language. The court has concluded after hearing argument that it is important to get all of plaintiff's present claims before the court in a single document once and for all. The various objections by defense counsel to the proposed eighth amended complaint are best handled in an appropriate motion to dismiss where all parties will have an opportunity to fully brief their respective positions. The complexity of the case does not lend itself to a proper resolution of these objections based on the few papers before the court.

Accordingly, plaintiff's motion to file his eighth amended complaint (Docket No. 163) is GRANTED, as follows:

1. The Eighth Amended Complaint shall be deemed filed this date, and shall be considered the only complaint before the court and the basis of this lawsuit. It shall completely supersede and replace any previous complaints filed or proposed by plaintiff in this matter.

2. Defendants U.S. Department of Labor and Elaine Chao, Secretary of the U.S. Department of Labor, are stricken as named defendants in the Eighth Amended Complaint since the court has previously dismissed them from this action based on lack of subject matter jurisdiction. Order of September 5, 2007, Docket No. 169, and Order Denying Motion for Reconsideration, dated

September 14, 2007 (Docket No. 176). These defendants cannot be brought back into the case simply by re-naming them in an amended complaint.

3. Defendant Robert W. Swanson, Director of the Michigan Department of Labor and Economic Growth, is hereby DISMISSED as a defendant in this action, since plaintiff has chosen to substitute Keith W. Cooley in his place in the Eighth Amended Complaint. Plaintiff's Motion for Leave to File the Eighth Amended Complaint, ¶ 4; Eighth Amended Complaint.

4. Plaintiff shall serve any new parties listed in the Eighth Amended Complaint not heretofore served, within the time provided by law.

IT IS SO ORDERED.

Dated: October 3, 2007

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge